RECORD
AND
BRIEFS

FILED
OCT 28 2014
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

MARK A. CHRISTESON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Nos. 14-6873
	)	14A445
	)	
DONALD ROPER, WARDEN,	)	
	)	
Respondent.	)	

SUPPLEMENTAL RESPONSE

In response to the Justice Alito's order, counsel for Respondent has reviewed the Appendix submitted by Christeson, and the record does not show that Christeson has authorized Merrigan, Mills or Perkovich to move for substitution of counsel. This lack of authorization was the basis of the court of appeals' October 15, 2014 dismissal of the district court's first denial of the motion to substitute (App. 240a). Before that dismissal, the court had ordered the parties to address Merrigan and Perkovich's standing to proceed (App. 184a). In response to the order to secondary counsel, Merrigan and Perkovich asserted they had a retention agreement "limited to the present appeal only." (App. 186a). The "present appeal" was that in No. 14-2896 (App. 189a). Respondent pointed out that secondary counsel had not placed the alleged retention letter into evidence before the court (App. 199a). Secondary counsel did not address this omission in the Reply (App. 206a-210a). The

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court of appeals dismissed the appeal because Merrigan and Perkovich did not have standing to proceed (App. 240a).

The district court dismissed the second and third motions to substitute counsel because it did not have jurisdiction due to Christeson's appeal (BIO, p. 3). But in denying the third motion to substitute, the district court also ruled in the alternative that it was denying the motion "for the reason previously stated by the Eighth Circuit, this [district] Court, by Petitioner's counsel, and by Respondent" (App. 300a). This reason included the Eighth Circuit's conclusion that secondary counsel lacked standing to proceed (App. 240a).

During the litigation of the fourth motion to substitute, secondary counsel did not cure their lack of standing to proceed. Secondary counsel did not place any retention letter into the record before the courts below (App. 340a-447a). The record does not show that Christeson has authorized Merrigan, Mills, or Perkovich to move on his behalf for substitution of counsel appointed pursuant to 18 U.S.C. § 3599.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was submitted to the Court on this 27th October, 2014 and a copy was emailed to:

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